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SESSIONAL WORKING GROUP ON THE IMPLEMENTATION OF THE INTERNATIONAL COVENANT ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

SUMMARY RECORD OF THE 9th MEETING

Held at Headquarters, New York,
on Monday, 20 April 1981, at 3 p.m.

Chairman: Mrs. BUTRAGUEÑO (Spain)

later: Mr. JOHNSON (Ecuador)

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Consideration of reports submitted in accordance with Council resolution 1988 (LX) by States Parties to the Covenant concerning rights covered by articles 10-12 (continued)

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The meeting was called to order at 3.05 p.m.

CONSIDERATION OF REPORTS SUBMITTED IN ACCORDANCE WITH COUNCIL RESOLUTION 1988(LX) BY STATES PARTIES TO THE COVENANT CONCERNING RIGHTS COVERED BY ARTICLES 10-12 (continued)

Report of Mongolia (E/1980/6/Add.7) (continued)

1. Mr. ENKHSAIKHAN (Observer for Mongolia) said in response to the questions put by the representative of the Federal Republic of Germany that the expression "if they wish" used in his country's report indicated that women had a legal right to extended leave for the purpose of caring for a child up to the age of six months, if they requested it. Women were entitled to receive a pension on reaching the age of 50, if they had brought up four or more children, as part of the Government's measures to encourage larger families. He noted that Mongolia had a population of 1.6 million and that the territory of the Republic covered 1.6 million square kilometres, giving a population density of only one to the square kilometre. The Government's population policy had already produced fruitful results: in the last 60 years the population had more than doubled. As far as child care was concerned, intensive measures were being taken to expand the number of nurseries and kindergartens so that the rate of increase would keep pace with the 3 per cent annual population increase. In the case of the death of a breadwinner, the dependants of the deceased received allowances and pensions. A minimum allowance of 300 Mongolian tugriks was paid for each child up to the age of 18.

2. While there were no homeless people in Mongolia, not all the people lived in permanent buildings. Owing to the special features of the Mongolian economy, the typical tent dwelling, or yurt, was frequently more appropriate from the point of view of the mobility of families engaged in cattle raising and similar pursuits. City dwellers also used yurts as summer homes. The housing problem was being dealt with in accordance with the special needs of the population. He noted that Mongolia was self-sufficient in meat, grain and dairy products and was also in a position to export them to other countries. Mongolia was first in the world in respect of meat consumption, which was 130 kilograms per person per year.

3. In reply to the representative of Jordan, he said that the Government provided country homes for children where they could spend up to 3 months' summer vacation at nominal cost to parents. Also, children under 16 still attending school full-time were given opportunities to acquire a knowledge of trades. There were special vocational classes in schools, and children were able to visit enterprises twice a week and to see how a particular trade was practised. After completing the seventh form, at age 15 or 16, the children were free either to continue their general education or to attend vocational schools, making use of the knowledge they had previously acquired.

4. In response to the representative of the Libyan Arab Jamahiriya, he said that a special Commission for Minors had been established under the Labour Code. Young persons could be dismissed from their jobs only when the Commission found that it was in their best interest.

(Mr. Enkhsaikhan, Observer, Mongolia)

5. In response to the questions from the representative of the German Democratic Republic, he said that the Family Code placed several legal restrictions on marriage. Both parties must be at least 18 years of age and neither must be legally married to another person. Certain categories of relatives were prohibited from marrying and the parties to a marriage had to be capable of carrying out the rights and duties conferred on them by marriage. The benefits available under the State system of social insurance included allowances for temporary disability, including pregnancy and childbirth, allowances on the birth of a child, allowances for burial expenses in the case of relatives, as well as pensions for old-age disability and loss of the breadwinner. State social insurance funds were also used for holiday homes where treatment was provided for workers and their families. The funds designated for those purposes could not be spent in any other way.

6. In reply to the questions of the representative of Norway, he said that the vastness of Mongolia's territory and the rigorous climate made housing construction work difficult. Transport costs were high and some building could not be done in the winter months. On the question about compulsory school attendance, he said that children were required to go to school until the seventh form. After that they could continue their general education or attend specialized secondary schools.

7. In reply to the representative of Spain, he said that it made no difference whether the breadwinner was a man or a woman; in the event of decease of the breadwinner, the main concern was with the surviving family members.

8. In response to the representative of Bulgaria, he said that the purpose of the special houses for pregnant women provided by agricultural and animal husbandry centres was to ensure that they received constant prenatal care before the confinement because members of the family, required to move to seasonal pasture grounds, might not be available to care for them.

9. In reply to the representative of the USSR, he said that measures were being taken to expand the tourist industry on a planned basis throughout the country. In the north-west, sanitoria had already been built using the medicinal waters of hot and cold springs. The number of tourists from the Soviet Union and other countries was steadily increasing. The Government was also working to preserve the unspoiled environment, and a number of new laws had been passed in the 1970s for environmental protection and the regulation of parks and reservations. In conclusion, he said that the normal length of the working day was 8 hours and that young people from 16 to 18 were not allowed to work more than 7 hours a day.

10. Mr. Johnson (Ecuador) took the Chair.

11. The CHAIRMAN thanked the representative of Mongolia for his replies to the questions put by members of the Working Group. He said that the Committee had thus completed its consideration of the report of the Government of Mongolia (E/1980/6/Add.7).

12. Mr. Enkhsaikhan (Mongolia) withdrew.

Report of Sweden (E/1980/6/Add.8)

13. At the invitation of the Chairman, Mr. Johan Nordenfelt and Ms. May-Britt Carlsson (Sweden) took places at the Committee table.

14. Ms. CARLSSON (Sweden), introducing the second periodic report of Sweden concerning the rights covered by articles 10 to 12 of the International Covenant on Economic, Social and Cultural Rights, said that as the report had been submitted in December 1979 there had been some changes on which she would comment.

15. In connexion with article 10 of the Covenant, certain changes had been made in the arrangements for financial assistance to families with children. A nine-month parental leave which could be shared by both parents had been instituted, at 90 per cent of salary. In addition, a further three months leave with allowance of 37 Swedish crowns per day, could be taken to care for a child. A parent was entitled to be away from his or her work for one and a half years without losing the right to return. Also, the father was entitled to stay at home for 10 days after the birth of child, so that both parents could be present during that period.

16. In the section on Sweden in the report of the International Labour Organisation concerning article 18 of the Covenant (E/1981/41, pp. 31-32), additional information was requested on the measures taken to ensure that work assigned to women during pregnancy and after childbirth was compatible with their state of health. She noted that a woman who was unable to continue her normal work during the latter part of her pregnancy because of the nature of the work was entitled to be transferred to easier work at the same wages.

17. The ILO report also said that additional information would be desirable on revisions to the regulations relating to the employment of young persons in dangerous or unhealthy work and the provisions concerning hours of work of young persons on board ship. In response, she read from recent Swedish legislation regulating the working environment of young people. Since the legislation had come into force, an ordinance on minors at work had also been issued. New regulations combining all the provisions on the employment of minors had been enacted. The list of prohibited jobs had been brought into line with developments in the labour market, and special efforts had been made to simplify exemption procedures. Dangerous jobs were listed in two schedules. The first contained jobs which were prohibited, but for which exemption could be granted; for example, those involving dangerous machinery or substances, some jobs in nursing and health care, and jobs involving the risk of violence. The second, containing jobs which under no circumstances could be given to minors, included some types of underwater work, work involving some carcinogens, and laboratory work in cancer research, among others. Maximum working hours for young persons were 9 hours per day and 45 hours per week. During school holidays, the maximum was 8 hours per day, 40 hours per week. At least 36 hours of continuous rest were required in each week, preferably during the weekend. On school days, young persons could work up to 8 hours per day and 12 hours per week, but they could not work before school.

18. Mr. ABDUL-AZIZ (Libyan Arab Jamahiriya) said that the report reflected the Swedish Government's concern to implement articles 10 through 12 of the Covenant. Modern Swedish family law contained a provision that was virtually unique to Sweden: the one allowing unmarried couples who were living together to receive most of the benefits accorded to married couples. In the light of the fact that article 10 established the family as the fundamental group of society, he wondered whether in the long run that legislation would affect the Swedish family.

19. Mr. BORCHARD (Federal Republic of Germany) said that Sweden's achievement in establishing a social welfare State was well known, but it was impressive to note that there were new legal provisions supplementing the social security system. He wished to know when the revised family law had been introduced and what had been Sweden's experience with it. Had the number of unmarried couples increased? How did the Government monitor claims by unmarried couples that they were living together? Was registration necessary? Were married and unmarried couples treated equally in terms of tax deductions? Could unmarried couples living together divorce? Any further information on the subject would be of great interest.

20. Mr. SVERRE (Norway) said that in many respects, Sweden was exemplary in terms of its arrangements and regulations governing the rights covered in articles 10 through 12 of the Covenant. He would be interested to hear the philosophical justification for the new principle introduced into modern Swedish family law. He also wished to know if unmarried couples could divorce, and if there was a difference in tax deductions for married and unmarried couples. He understood that in Sweden, it was possible for a child to separate from his parents. He wondered what criteria had been applied in the legislation on that matter.

21. Mrs. BUTRAGUEÑA (Spain) said that it would be interesting to know whether statistics showed that divorce was increasing in Sweden or whether people simply did not get married in the first place. She understood that both mothers and fathers had obligatory time off from work both before and after the birth of a child, and that voluntary leave was also available both to the father and the mother. She wondered how long that leave lasted and whether there were statistics indicating how many fathers were taking it.

22. Mr. PAL (India) requested clarification on modern Swedish family law. In particular, he wanted to know whether an unmarried couple had to divorce before they could set up housekeeping with new partners. It was conceivable that, in the absence of regulations governing the dissolution of an unmarried relationship, a technically bigamous situation could arise and lead to an erosion of family life by creating endlessly extended families. He also requested information on the possibility that children could divorce their parents.

23. Mr. SAMSON (International Labour Organisation) said that in its report, the ILO Committee of Experts had reflected Sweden's new ideas and institutions relating to the family by referring to parental, not maternal leave. Swedish legislation viewed the matter from the point of view of leave and benefits for both parents, and the accent was on a family approach to the care of infants. The Covenant, however, was concerned with the protection of mothers (article 10, para. 2),

(Mr. Samson, ILO)

and the Swedish system took account of the mother's special needs. Only the mother could take leave and receive benefits in the period before confinement, and she was entitled to leave and benefits for a specific period after childbirth, whether or not the child was in her care.

24. The ILO Committee of Experts had felt that additional information was needed on measures, including regulations, to ensure that work assigned to women during pregnancy and after childbirth was compatible with their state of health. He understood that working women in the final stages of pregnancy had the right to ask for a transfer to other types of work, and if that was not possible, to take leave with benefits, but the question was whether there were regulations to exclude pregnant women from work which might be especially dangerous to their health or to that of the child.

25. The Committee of Experts had also requested information on work done by children and young persons. At present there was no minimum age for their employment in domestic work, and the question was whether any measures to establish a minimum age were contemplated. Information would also be useful on any further measures taken to restrict work done by children under 13 years of age and to regulate work by children and young persons outside an employment relationship. The Government had stated that it was revising the regulations on the employment of young persons in dangerous or unhealthy work and that consideration was being given to the adoption of regulations on working hours for young persons on board ship. The Committee of Experts would like to receive information on progress made in those matters. It appeared from the statement by the Swedish representative that the revised general regulations on dangerous work prohibited to young persons had already been issued.

26. Mr. NORDENFELT (Sweden), replying to the question on whether unmarried couples could divorce, said that Swedish divorce legislation facilitated divorce between married persons who wished to do so and was aimed primarily at safeguarding the interests of the child. It did not matter whether the parents were actually married or not; their obligations toward the child were the same. As to whether the existence of the institution of marriage and the alternative institution of unmarried couples living together would undermine the family, statistics showed that the total number of married couples had decreased and the total number of divorces had risen, as had the total number of unmarried couples. Swedish law defined as a family situation one where people were living together, whether or not they had children. Thus, the status of marriage in Sweden was unchanged as far as the law was concerned, and the interests of children were protected in the same way.

27. With regard to the question whether couples were required to register as being unmarried and living together, consideration was being given to measures to establish some form of registration. At present, in order to enjoy the social welfare and other benefits, a couple had to make a statement before the competent authority that the two parties were living together and produce evidence that they resided at the same address. A statement also had to be made to the authorities. He had no statistics on whether more unmarried couples were subsequently getting married, but he suspected that they were not.

28. Ms. CARLSSON (Sweden) stressed that while the Swedish Government was very much concerned about protecting children, it also felt that adults should have the right to decide how to arrange their family life. The legislation reflected the way that people were behaving: more and more people wished to be free to make the family arrangements which best suited them.

29. There were some safeguards for children in Swedish divorce laws. If there was a child under 16 years of age, the parents' divorce could not go through until six months had elapsed from the date of application. The legislation envisaging the possibility that a child could "divorce" its parents was aimed at preventing child abuse. Its effect was to provide a child with resources for protection against parents who mistreated him. The legislation also suggested that an ombudsman should be appointed to represent children and that social workers should counsel the family having problems with children.

30. With regard to the protection of working mothers, it was compulsory for a mother to stay home from work for two months before childbirth and one month after. The husband could also stay home to care for both mother and child, although the leave was termed parental leave, i.e., for care of the child. Both parents could, if they chose, take part of their parental leave in shorter working hours over a longer period of time. They also had the right to take unpaid leave. The legislation on parental leave had come into force in 1974 and the proportion of fathers taking parental leave had been 2 per cent for that first year. Today, that figure was 12 per cent, which represented an excellent increase and showed that society was changing.

31. Bigamy was aginst the law in Sweden.

32. The legislation on the working environment applied both to domestic and other types of work, and working hours for young people doing domestic work were the same as for all working minors. There were no special regulations governing the exclusion of pregnant women from work which might be especially dangerous to them, but the regulations on dangerous work were strict, and applied equally to men and women.

33. The CHAIRMAN said that, if he heard no objection, he would take it that the Working Group had completed its consideration of the report by Sweden (E/1980/6/Add.8).

34. Ms. CARLSSON and Mr. NORDENFELT (Sweden) withdrew.

The meeting rose at 4.35 p.m.